

**In the United States Court of Federal Claims**

**OFFICE OF SPECIAL MASTERS**

No. 09-656V

(Filed: April 28, 2014)

\* \* \* \* \*

CHARLES M. CHESTER, as \*

Executor of the Estate of BARBARA \*

CHESTER, \*

\*,

Petitioner, \*

\*,

\*,

\*,

v. \*

\*,

SECRETARY OF HEALTH \*

AND HUMAN SERVICES, \*

\*,

Respondent. \*

\* \* \* \* \*

Stipulation of Facts; Attorneys' Fees and  
Costs

*Franklin Caldwell, Jr.*, Sarasota, FL, for Petitioner

*Traci Patton*, Washington, DC, for Respondent

**UNPUBLISHED DECISION<sup>1</sup>**

On April 24, 2014, the parties filed a stipulation of fact concerning final attorneys' fees and costs in the above-captioned matter. Previously, Petitioner had

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the undersigned's action in this case, the undersigned intends to post this order on the United States Court of Federal Claims website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction "of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, "the entire" order will be available to the public. *Id.*

informally submitted a draft application for attorneys' fees and costs to Respondent for review. Upon review of Petitioner's application, Respondent raised objections to certain items. Based on subsequent discussions, Petitioner amended her application to request \$ 84,082.51, an amount to which respondent does not object. The Court awards this amount.

On October 2, 2009, Barbara Chester filed a petition for compensation alleging that the influenza vaccine, which is contained in the Vaccine Injury Table (the "Table"), alleging that she suffered certain injuries as a result of receiving a vaccination. Upon Ms. Chester's death, Charles Chester as the executor of Ms. Chester's estate, was substituted as Petitioner. Among the injuries Petitioner alleged that Ms. Chester suffered as a result of receiving an influenza vaccination was Guillain-Barré syndrome (GBS). Petitioner received compensation based upon the parties' stipulation. *Decision*, filed March 21, 2014. Because Petitioner received compensation, he is entitled to an award of attorneys' fees and costs. 42 U.S.C. § 300aa-15(e).

Petitioner seeks a total of **\$84,082.51** in attorneys' fees and costs for his counsel (with no out-of-pocket litigation expenses incurred by Petitioner per General Order #9). Respondent has no objection to the amount requested for attorneys' fees and costs.

After reviewing the request, the Court awards the following:

**A lump sum of \$84,082.51 in the form of a check made payable to petitioner and petitioner's attorney, Franklin Caldwell, of the law firm Maglio, Christopher & Toale, for attorneys' fees and costs available under 42 U.S.C. § 300aa-15(e).**

In the absence of a motion for review filed pursuant to RCFC, Appendix B, the clerk shall enter judgment accordingly.<sup>2</sup>

Any questions may be directed to my law clerk, Camille Collett, at (202) 357-6361.

**IT IS SO ORDERED.**

s/Lisa Hamilton-Fieldman  
Lisa Hamilton-Fieldman  
Special Master

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<sup>2</sup> Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.